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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Policies and Rules	)	CC Docket No. 93-22
Implementing the Telephone	)	RM-7990
Disclosure and Dispute	)	
Resolution Act	)	

COMMENTS

MCI Telecommunications Corporation (MCI) hereby furnishes its comments on the Commission's Notice of Proposed Rulemaking

parties enter into prior to the call. Such an arrangement is embodied in MCI information services that are provided via use of an MCI calling card. For example, MCI calling card customers can access certain MCI information programs by dialing an 800 number and then in-putting an authorization code. The information services provided are a feature of the MCI calling card, which not only are a valuable service to MCI customers, but also serve to distinguish the MCI card from those of its competitors.

MCI furnishes information to customers concerning how to access these services, as well as information describing them and their costs, at such time as customers receive their MCI card. Thus, MCI's information services are accessible only by those possessing a card and actual information concerning the nature and cost of the information programs, prior to their ability to place a call. Accordingly, the Commission should find that these services are provided pursuant to a "presubscription arrangement" in full satisfaction of legislative requirements.[1/]

However, it appears that Congress also intended the use of a credit or charge card in connection with an information service call to be a "presubscription or comparable arrangement" and,

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[1/] MCI is investigating the possibility of expanding the availability of this value-added service to its customers while at home, such that customers presubscribed to MCI will be able to access the information services from the presubscribed phone via 700 access. Customers who select MCI as their presubscribed carrier would receive instructions on how to access these services and information concerning the nature and cost of these services. In addition, 700 access is different from 900 or 800 access because it is available only to carriers. Accordingly, this also should be considered a presubscription arrangement within the meaning of the statute.

therefore, not a pay-per-call service. This conclusion is based on Title I, Section 101(c)(6)(c) and Title II, Section 201(a)(2)(F) of the Act. Title I, Section 101(c)(6)(C) states that the Commission must require common carriers to prohibit the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, in a manner that would result in "the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or

carrier's termination of pay-per-call service for failure to comply with the TDDRA or relevant FTC regulations. MCI intends to incorporate the FTC's rules in its tariff and, therefore, termination for non-compliance will be in accordance with its tariff. Under the tariff, MCI would terminate service for non-compliance with a tariff provision after seven days written notice if the customer does not come into compliance within the seven day period. MCI believes that this procedure provides an appropriate balance between conflicting needs; that is, a reasonably prompt termination of non-compliant programs, with adequate notice to the customer. Accordingly, any termination procedures established by the Commission should follow these.

III. 800 Number Restrictions

The Commission asks for comments concerning whether the TDDRA's 800 number restrictions encompass the interexchange carriers' (IXCs') establishment of 800 numbers for use by subscribers in making calling card calls. Although the Commission does not specify which restriction it believes may apply here, the only restriction which could possibly apply is Section 101(c)(6)(A), which prohibits the use of any 800 telephone number in a manner that would result in "the calling party being assessed, by virtue of completing the call, a charge for the call...."

This provision clearly <u>does not</u> apply to IXC calling card calls that utilize an 800 access code because the caller is not

assessed a charge for the 800 call. The caller merely accesses the IXC's network by dialing the 800 access number, for which there is no charge to the calling party. A charge is assessed only for completion of the operator services call.

IV. Common Carrier Liability

The TDDRA states that a carrier shall not be liable "for a criminal or civil sanction or penalty solely because the carrier provided transmission or billing and collection for a pay-per-call service unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant to, title II or III of the [TDDRA] or any other Federal law."[2/] MCI urges the Commission to find that a carrier "reasonably should know" that a program is not in compliance only after there is a pattern of complaints, which become known to the carrier . Accordingly, a carrier would not be deemed to "know" that a program violates the Act if, for example, it has received only one or perhaps a few complaints.

In addition, MCI urges the Commission to ensure that carriers will not be found to have violated this provision as the result of their taking steps to comply with the Act. Specifically, MCI believes that, in order to comply with the Act, it may be necessary for carriers to screen pay-per-call

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[2/] The Commission should also interpret the phrase "knows or reasonably should know" used in Section 101(c)(5) concerning the verification of charitable status and Section 101(d) concerning billing and collection practices in the same manner.

applications or to obtain assurance from the pay-per-call provider that the proposed program complies with the Act. This type of practice is in the public interest because it could prevent programs that clearly do not comply with the Act or federal law from ever being offered to consumers. Carriers would be inhibited from engaging in such screening practice, however, if, as a result thereof, they could be found liable for violating the Act, the FTC's or FCC's rules, or federal law. Therefore, carriers should not be deemed to "know or reasonably should know" that a program violates the Act or federal law, as the result of good faith efforts to screen pay-per-call programs before initiation of service.

V. Billing and Collection

The Commission asks whether additional information should be included in telephone bills containing pay-per-call charges. For example, the Commission asks whether the IP's name and other information should be included; whether the bills should include a statement informing the billed party that, even if the carrier issues a credit, an IP may pursue collection; and whether the bill should include statements concerning the dispute procedures and a customer's rights, once a charge has been disputed.

MCI urges the Commission not to require this additional information on bills because it would be extremely costly to do so and, further, is not necessary because customers will be adequately informed of their rights and information concerning

the IP as the result of other provisions of the Act and the FTC's rules. Currently, telephone bills that contain pay-per-call charges indicate, among other things, the pay-per-call number called, the nature of the program and a toll free number which customers can call to obtain more information about the IP and the program. In addition, under the FTC's proposed rules, billing entities are required to inform all customers about their rights and obligations under the TDDRA and applicable rules.

this provision requires billing entities to do far more than does the Act and, therefore, it should be revised.

As an initial matter, the Commission should clarify that this provision only applies to carriers that are the billing entity for a pay-per-call program. In addition, the Act clearly states that refunds should be provided to subscribers billed for pay-per-call services pursuant to programs "that have been found"

rates for pay-per-call service and billing and collection.

VII. Conclusion

Based on the foregoing, MCI respectfully requests that the Commission modify its proposed rules as discussed herein.

Respectfully submitted,

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Dated: April 19, 1993

CERTIFICATE OF SERVICE

I, Vernell V. Garey, do hereby certify that on this 19th day of April, 1993, copies of the foregoing **"Comments"** in the Matter of Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act in CC Docket No. 93-22, RM-7990 were served by first-class mail, postage prepaid, upon the parties listed on the following attachment.

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